

# **The Affirmative Employment Program**

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# Civil Rights Regulations and Directives

- **Equal Employment Opportunity in the Federal Government, Executive Order 11478 (1969)**
- **Equal Employment Opportunity Act of 1972, P.L. 92-261**
- **Civil Rights Act of 1964, as Amended**
- **Civil Rights Act of 1991, P.L. 102-166**
- **29 CFR Part 1614, Federal Sector Equal Employment Opportunity (Nov. 1999)**
- **29 CFR Part 1608, Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964, as Amended**
- **EEOC MD-714 – Instructions - Development and Submission of Federal Affirmative Employment Multi-Year Program Plans, Annual Accomplishment Reports and Annual Plan Updates 1988-1992**

# Affirmative Employment Program

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- **In accordance with EEOC MD 714, agencies with 500 or more employees, prepare AEPs. AEPs are prepared by each program area and implemented by the Deputy Administrators. The individual plans are combined to develop the overall APHIS AEP.**
- **The AEP provides the direction and guidance necessary to accomplish the organization's goals and objectives to ensure equal opportunity for women, minorities, and persons with disabilities.**

# AEP Advisory Structure

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- **In USDA, the AEP Advisory Structure is located in the Office of Civil Rights (OCR). The Director of OCR reports to the Assistant Secretary for Civil Rights.**
- **The APHIS AEP Advisory Structure is located in the Office of Civil Rights Enforcement and Compliance (CREC). The CREC Director reports to the APHIS Administrator.**

# Affirmative Employment Program Organizational Structure

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**Department Level**  
**Agency Level**

**Office of the Secretary**  
**USDA Director Office of Civil Rights**

**USDA Director Office of Civil Rights**

**APHIS Director**  
**Civil Rights Enforcement and Compliance**

**APHIS**  
**Affirmative Employment Manager**  
**National Special Emphasis Program Managers**

**APHIS**  
**EEO Advisory Council**  
**National Civil Rights Leadership Committees**

**EEO Advisory Committees**  
**Affirmative Employment Liaisons**  
**Special Emphasis Program Managers**

**Local Area Coordinators**

## **EEOC MD-714 Affirmative Employment Program Elements:**

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### **■ Organizational and Resources**

- Civil Rights Director has direct access to top management and open lines of communication to agency supervisors**
- Civil Rights Program officials are adequately trained to resolve problems and issues in areas of responsibility**
- Increased accountability for Civil Rights accomplishments at all levels**
- Special Emphasis Program Managers and collateral duty personnel devote sufficient time to AEP objectives**

### **■ Workforce Analysis**

- Analysis of the agency's workforce by PATCOB category, grade groupings, and major occupations**
- Comparison of the agency's workforce with the previous FY workforce**
- Comparison of the agency's workforce with the appropriate Civilian Labor Force (CLF)**

## **EEOC MD-714 Affirmative Employment Program Elements: (continued)**

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### **■ Discrimination Complaints**

- Analysis of bases, issues, and findings of discrimination complaints might suggest possible problem areas**
- Provide formal complaints processing training to managers and supervisors**

### **■ Recruitment and Hiring**

- Recruitment sources result in qualified minority and female applicants who meet organizational need**
- To address under-representation through both internal movement and external recruitment**

## **EEOC MD-714 Affirmative Employment Program Elements (continued)**

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### **■ Employee Development Programs**

- Systems for tracking information on employee skills and training**
- Ensure all APHIS employees have meaningful Individual Development Plans or Learning Contracts**
- Ensure appropriate training opportunities exist for women and minorities to enhance potential for career advancement into senior level positions**

### **■ Promotions**

- Identify and correct barriers to promotion/non-selections and focus on underrepresented groups**



## **EEOC MD-714 Affirmative Employment Program Elements: (continued)**

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### **■ Separations**

- Ensure separations are conducted fairly and in a non-discriminatory manner**
- Implement the newly established Exit Interview Feedback System to determine the best avenue to resolve problems and promote better working conditions**

### **■ Program Evaluations**

- Incorporate findings from Civil Rights On-site Reviews and agency program evaluations into the AEP development process**
- Ensure that Civil Rights Advisory Committees/Special Emphasis Program Managers provide input to civil rights compliance evaluations**
- Develop an agency-wide procedure for granting awards and distribute to all employees**

## **EEO Advisory Committee Members**

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- **EEO Advisory Committees have been established for each program area. Each committee has a Chairperson, Charter, and Mission Statement. The members serve as links between managers and employees. They are not authorized to handle discrimination complaints or related matters. Such complaints are referred to the APHIS ADR Center. Major functions of the committee are to:**
  - **Develop and implement the AEP Plan**
  - **Analyze and evaluate data and provide guidance on the status of the workforce and civil rights activities**
  - **Review and identify personnel policies and practices that create barriers to hiring and advancement of minorities, women and individuals with disabilities and recommend corrective action**
  - **Compile and analyze statistical data pertinent to affirmative action and federal recruitment**

## **EEO Advisory Committee Members (continued)**

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- **There are two National Civil Rights Leadership Committees (NCRLC) established within APHIS: Plant Protection and Quarantine and Veterinary Services.**
- **Special Emphasis Program Managers, AEP Liaisons, and Civil Rights Advisory Committees are an important part of the Affirmative Employment Program. They are responsible for providing direction, leadership and guidance to the program areas regarding the Departmental and APHIS Special Emphasis Program policies and initiatives.**

# EEO Advisory Committees Responsibilities

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- **Analyzing the workforce and identifying barriers to the full employment, development, and advancement of under-represented groups**
- **Presenting findings and making recommendations to management to remove the identified barriers**
- **Educating the workforce on barriers preventing under-represented groups from achieving their full potential (glass ceilings – the more you strive to achieve the higher the standards)**

# **An Effective Affirmative Employment Program**

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- **Learn more about the goals and the objectives of your Program**
- **Support your Agency AEP Manager**
- **Provide input to the various reports: Civil Rights Performance Questionnaires, Program and APHIS-wide AEP Plan and Accomplishment Reports, the Federal Equal Opportunity Recruitment Program (FEORP) Report, and Special Emphasis Program Quarterly Reports**
- **Review Human Resources information on a regular basis: Training and Recruitment Information and Quarterly Exit Interview Reports**

## **An Effective Affirmative Employment Program (continued)**

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- **Implement the goals and objectives of your Program's AEP Report**
- **Discuss ideas, make suggestions and propose ways to improve employment and advancement opportunities for women, minorities and persons with disabilities**

# APPENDIX

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- **Title 29, US Code of Federal Regulations, Part 1614, Agency Program to Promote Equal Employment Opportunity:** It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or handicap and promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.
- **Title VI of the Civil Rights Act of 1964, as Amended:** No person in the United States shall, on the basis of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. If it is determined that a program or activity does not comply with established requirements for nondiscrimination in program delivery, termination of or refusal to grant or continue Federal assistance under such program or activity may result.

## APPENDIX (continued)

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- **Title VII of the Civil Rights Act of 1964, as Amended (Public Law 102-166):** Prohibits employment discrimination and practices that have the effect of discriminating against individuals because of race, color, national origin, religion, sex, and reprisal in all terms, conditions, privileges, and compensations of employment. The Civil Rights Act of 1991 authorizes compensatory and punitive damages in cases of intentional violation of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973, and provides for obtaining attorney fees and the possibility of jury trials.
- **The Equal Pay Act of 1963 (Public Law 88-38):** The Equal Pay Act is the part of the Fair Labor Standards Act of 1938, as amended, which is administered and enforced by the Equal Employment Opportunity Commission. The Act prohibits sex-based wage discrimination between members of the opposite sex employed in the same establishment who are performing jobs that require equal skill, effort, and responsibility and which are performed under similar working conditions.



## APPENDIX (continued)

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- **The Age Discrimination in Employment Act of 1967 (P.L. 90-202), as Amended** Prohibits discrimination, on the basis of age, in all matters of hiring, discharge, compensation, and other terms, conditions, and privileges of employment for all employees and applicants for Federal employment who are 40 years of age or older.
- **Equal Employment Opportunity in the Federal Government (Executive Order 11478, August 8, 1969, as Amended):** Established the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement and treatment of civilian employees of the Federal Government.

## APPENDIX (continued)

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- **Federal Employment Opportunity Act of 1972 (P.L. 92-261, as Amended):** The Act, administered by the former Civil Service Commission, granted the Commission the authority to enforce the provisions of the EEO Act through appropriate remedies, including reinstatement or hiring of employees with or without back pay, and to effectuate the policies of this section, to issue rules, regulations, orders, and instructions as deemed appropriate to accomplish the provisions of the Act.
- **Rehabilitation Act of 1973 (P.L. 93-212), Sections 501:** Prohibits employment discrimination by federal agencies on the basis of disability. Section 505 contains provisions governing remedies and attorney's fees under section 501.

## APPENDIX (continued)

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- **Civil Service Reform Act of 1978 (P.L. 95-454):** This Act created the Office of Personnel Management and provided regulations that mandated that all executive departments and agencies implement recruitment programs to eliminate under representation of minorities in federal employment. It established the Federal Employment Opportunity Recruitment Plan (FEORP) system. FEORP plans must be included in the agency Affirmative Employment Program Plan and must evaluate the effectiveness of such programs.
- **Americans with Disabilities Act of 1990 (P.L. 101-336):** This legislation covers Americans having one or more physical or mental disability and provides a comprehensive mandate for enforcing the laws prohibiting discrimination in employment opportunity for individuals with disabilities. EEOC is responsible for ensuring compliance with Title I of this statute and in coordination with the Attorney General, for providing technical assistance to those with rights and responsibilities under the Act.

## APPENDIX (continued)

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- **Civil Rights Act of 1991 (P.L. 102-166):** Amended Title VII to address the subjects of disparate impact, business necessity, bias after hiring, challenges to consent decrees, timeliness of challenges to seniority systems, mixed motives, expert witness fees, extraterritoriality, compensatory and punitive damages, jury trials, interest and filing times in actions against the federal government. The Act also mandated the EEOC to carry out educational and outreach activities.
- **Environmental Justice (Executive Order 12898, February 11, 1994):** The legislation directs federal agencies to incorporate environmental justice into the overall mission policies, programs, and activities by identifying and addressing disproportionately high and adverse human health and environmental effects of programs, policies, and activities on minority populations and low income population. The order established the Environmental Justice Interagency Working Group to provide guidance to the agencies on identifying environmental justice problems, and to work with each agency to develop corrective strategies and strategic plans.

# **Model Equal Opportunity Workplace Federal Agency EEO Fitness Scorecard**

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**A Federal agency with a model EEO program is one that has:**

## **Demonstrated Commitment From Agency Leadership**

- ✓ **The agency head and other senior management officials demonstrate a firm commitment to equality of opportunity for all employees and applicants for employment.**
- ✓ **The agency head issues, at the beginning of the head's administration and annually thereafter, a written policy statement expressing the commitment to equal employment opportunity (EEO) and a workplace free of discriminatory harassment.**

## **Integrated EEO Into The Agency's Strategic Mission**

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- ✓ **Maintains a reporting structure that provides the agency's EEO Director with regular access to the agency head and other senior management officials for reporting on the effectiveness, efficiency and legal compliance of the agency's Title VII and Rehabilitation Act programs.**
- ✓ **Ensures EEO professionals are involved with, and consulted on, the management and development of human resources. The EEO Director should be a regular participant in senior staff meetings and regularly consulted on human resources issues.**
- ✓ **Allocates sufficient resources to create/or maintain Title VII and Rehabilitation Act programs that identify and eliminate barriers to EEO; establish and maintain training and education programs designed to provide maximum opportunity for all employees to advance; and ensure that unlawful discrimination in the workplace is promptly corrected and addressed.**

## **Integrated EEO Into The Agency's Strategic Mission (continued)**

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- ✓ **Attracts, develops and retains EEO staff with the strategic competencies necessary to accomplish the agency's EEO mission, and interface with agency officials, managers and employees.**
- ✓ **Recruits, hires, develops and retains supervisors and managers who have effective managerial, communications and interpersonal skills. Provides managers and supervisors with appropriate training and other resources to understand and successfully discharge their duties and responsibilities.**
- ✓ **Involves managers and employees in the implementation of the agency's Title VII and Rehabilitation Act programs.**
- ✓ **Uses various media to distribute EEO information concerning federal EEO laws, regulations and requirements, rights, duties and responsibilities and to promote best workplace practices.**

# Management and Program Accountability

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- ✓ Holds managers, supervisors, EEO officials and personnel officers accountable for the effective implementation and management of the agency's program.
- ✓ Conducts regular internal audits, on at least an annual basis, to assess the effectiveness and efficiency of the Title VII and Rehabilitation Act programs and to ascertain whether the agency has made a good faith effort to identify and remove barriers to equality of opportunity in the workplace.
- ✓ Establishes procedures to prevent all forms of discrimination, including harassment, retaliation and failure to provide reasonable accommodation to qualified individuals with disabilities.
- ✓ Evaluates managers and supervisors on efforts to ensure equality of opportunity for all employees.



## **Management and Program Accountability (continued)**

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- ✓ **Maintains clearly defined, well-communicated, consistently applied and fairly implemented personnel policies, selection and promotion procedures, evaluation procedures, rules of conduct and training systems.**
- ✓ **Implements effective reasonable accommodations procedures.**
- ✓ **Ensures effective coordination between the agency's EEO programs and related human resource programs, including the Federal Equal Opportunity Recruitment Program (FEORP), and Selective Placement Programs and the Disabled Veterans Affirmative Action Program (DVAAP)**
- ✓ **Reviews each finding of discrimination to determine the appropriateness of taking disciplinary action against agency officials involved in this matter. Track these decisions and report trends, issues and problems to agency leadership for the appropriate action.**

# Management and Program Accountability

## (continued)

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- ✓ Ensures compliance with settlement agreements and orders issued by the agency, EEOC, and EEO-related cases from the Merit Systems Protection Board, labor arbitrators, and the Federal Labor Relations Authority.

## Proactive Prevention of Unlawful Discrimination Practices

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- ✓ **Conducts a self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups and develop strategic plans to eliminate identified barriers.**

## Efficient Programs

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- ✓ **Maintains an efficient, fair and impartial complaint resolution process.**
- ✓ **Ensures that the investigation and adjudication function of the agency's complaint resolution process are kept separate from the legal defense arm of the agency or other agency offices with conflicting or competing interests.**
- ✓ **Establishes and encourages the widespread use of a fair alternative dispute resolution (ADR) program that facilitates the early, effective and efficient informal resolution disputes. Appoints a senior official as the dispute resolution specialist of the agency charged with implementing a program to provide significant opportunities for ADR for the full range of employment-related disputes. Whenever ADR is offered for in a particular workplace matter, ensures that managers at all appropriate levels will participate in the ADR process.**

## Efficient Programs (continued)

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- ✓ **Uses a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed at each stage of the agency's complaint resolution process, the issues and the bases of the complainants, the aggrieved individuals/complainants, the involved management officials and other information necessary to analyze complaint activity and identify trends.**
- ✓ **Identifies, monitors and reports significant trends reflected in complaint processing activity.**
- ✓ **Ensures timely and complete compliance with EEOC orders and the provisions of settlement/resolution agreements.**
- ✓ **Maintains a tracking system that collects and maintains accurate information on the race, national origin, sex and disability status of the agency employees. See 29 C.F.R. 1614.601 for further guidance.**

## Efficient Programs (continued)

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- ✓ **Maintains a system that tracks applicant flow data, which identifies applicants by race, national origin, sex and disability status and the disposition of all applications.**
- ✓ **Maintains a tracking system of recruitment activities to permit analyses of these efforts in any examination of potential barriers to equality of opportunity.**
- ✓ **Identifies and disseminates best workplace practices.**

## **Responsiveness and Legal Compliance**

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- ✓ **Ensures that the agency is in full compliance with the law, including EEOC regulations, orders and other written instructions.**
- ✓ **Reports agency program efforts and accomplishments to EEOC and respond to EEOC directives and orders in accordance with EEOC instructions and timeframes.**
- ✓ **Ensures that management fully and timely complies with the final EEOC orders for corrective action and relief in EEO matters.**

**For additional information, please contact:  
The Affirmative Employment Program/Special Emphasis Team**

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**The Civil Rights Enforcement and Compliance website:  
[www.aphis.usda.gov/oa/crec](http://www.aphis.usda.gov/oa/crec)**